

Appl. No. : 10/090,039
Filed : February 27, 2002

I. Rejections under 35 U.S.C. § 103

Claims 21-26 stand rejected under 35 U.S.C. § 103 for allegedly being unpatentable over Barney et al. (USP 4,906,573).

Applicants have amended Claim 21 to recite "a nutrient broth in a flowable, liquid state." Support for the amendment is found through out the specification, and specifically on, inter alia, page 7, lines 15-16 and page 10, lines 25-30. In a response to the previous Office Action, Applicants set forth the differences between the invention presently claimed and the disclosure of Barney et al. During the telephonic interview, Examiner Coe indicated that she believed the amended Claim 21 would render Applicants' "previous arguments much more persuasive."

The new Claim 27 includes the limitation that the first pH range is between 6.8 and 7.2. Support for the amendment is found through out the specification, and specifically on, inter alia, page 11, lines 17-9, and Table 2 on page 15. As was discussed during the telephonic interview, Barney et al. is directed to beer spoilage microorganisms. The invention presently claimed is directed to sterility check. As a result, the culture media of the present invention need to be of a general nature and have a pH of about neutral in order to allow different species of microorganisms to grow. During the telephonic interview, Examiner Coe indicated that she believed the additional limitation in Claim 27 directed to the first pH "appeared to be persuasive."

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

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CONCLUSION

Claims 21-27 are pending. Applicants respectfully maintain that claims as amended herewith are patentable and request that they be passed to issue. No fee is believed due in connection with the present response. If this is incorrect, the Commissioner is hereby authorized to charge or credit Deposit Account No. 11-1410. Applicants invite the Examiner to call the undersigned if any issues may be resolved through a telephonic conversation.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: 

Sam K. Tahmassebi
Registration No. 45,151
Attorney of Record
2040 Main Street
Fourteenth Floor
Irvine, CA 92614
(619) 235-8550

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VERSION WITH MARKINGS TO SHOW CHANGES MADE.

Please amend claim 21 as follows:

21. (ONCE AMENDED) A culture medium, which is capable of supporting growth of viable microorganisms comprising:

a nutrient broth in a flowable, liquid state;

a dye which changes color with a change in pH from a first pH range to a second pH range; and

a dual buffer system comprising a first buffer having a first pK_a and a second buffer having a second pK_a , wherein said first pK_a and said second pK_a are within said first pH range and said second pH range respectively.

Please add the following new claim 27:

27. (NEW) A culture medium, which is capable of supporting growth of viable microorganisms comprising:

a nutrient broth;

a dye which changes color with a change in pH from a first pH range to a second pH range; and

a dual buffer system comprising a first buffer having a first pK_a and a second buffer having a second pK_a , wherein said first pK_a and said second pK_a are within said first pH range and said second pH range respectively;

wherein said first pH range is between 6.8 and 7.2.